

IN THE MATTER OF:)
)
)
North Dakota State Board of Medical)
Examiners - Investigative Panel B,)
)
Complainant,)
)
)
vs.)
)
)
Enrique A. Goodliffe, M.D.,)
)
)
Respondent.)

OAH File No. 20030248

On July 21, 2003, the Board requested the designation of an administrative law judge (ALJ) from the Office of Administrative Hearings to conduct a hearing and to issue

recommended findings of fact and conclusions of law, as well as a recommended order, in regard to the Complaint. On July 23, 2003, the undersigned ALJ was designated.

On September 10, 2003, the ALJ issued a Notice of Hearing. The date for the hearing was delayed at Goodliffe's request because of his temporary absence from this country. The hearing was held as scheduled on March 17, 2004, in the Office of Administrative Hearings, Bismarck, North Dakota. Investigative Panel B was represented by Special Assistant Attorney General John M. Olson. Goodliffe was present at the hearing but was not represented by counsel at the hearing. He represented himself. Investigative Panel B offered six exhibits at the hearing, all of which were admitted. *See* attached exhibit list.

Investigative Panel B presented no witnesses, though its Witness and Exhibit List filed February 26, 2004, lists several potential witnesses. Prior to Investigative Panel B calling any witnesses at the hearing, Goodliffe admitted the allegation of the Complaint, offering a brief explanation indicating that this was a singular event. Mr. Olson made some comments by way of opening statement and offered the exhibits, to which Goodliffe had no objection. Mr. Olson then made a closing statement, which included the recommendation of Investigative Panel B for disciplinary action. Goodliffe made no closing statement.

Based on the evidence presented at the hearing and the admission of Goodliffe, the administrative law judge makes the following recommended findings of fact and conclusions of law.

FINDINGS OF FACT

1. Goodliffe is currently a physician licensed to practice Medicine in the State of North Dakota, license number 3474. Goodliffe was first licensed by the Board on August 23, 1974. *See* Exhibit 6.

2. Goodliffe currently resides at 901 2nd Street, Langdon, ND 58249.
3. Goodliffe was personally served with the May 20, 2003, Complaint of Investigative Panel B and admitted service on May 22, 2003.
4. Goodliffe was served with the September 9, 2003, Notice of Hearing by service on his attorney at the time, Mr. Scott Stewart, Langdon.
5. At the hearing Goodliffe admitted, and the evidence shows, by the greater weight of the evidence, that Goodliffe, on October 31, 2002, completed and executed a Department of Transportation Medical Examination Report (exhibit 2) without having performed the necessary physical examination on the patient in order to complete the form accurately. At the request of the patient's mother, the Langdon Clinic manager, Goodliffe completed that part of the form not completed by the patient's mother and signed the form. The patient, a truck driver, was out-of-state driving truck when the reported examination was falsified and the form was signed by Goodliffe. Goodliffe used previous examination forms (exhibit 2) to complete the information. A Medical Examiner's Certificate was issued for the patient (exhibit 2). The patient had not had a physical examination since 2000. *See* report and statements of exhibits 1, 3, 4, and 5.

CONCLUSIONS OF LAW

1. Goodliffe is a physician currently licensed to practice medicine in the State of North Dakota
2. The evidence shows, by the greater weight of the evidence, and Goodliffe admits, that he violated the provisions of N.D.C.C. § 43-17-31(22), in that he completed and executed a Department of Transportation Medical Examination Report without having performed the necessary physical examination on the patient in order to complete the form accurately.

3. Goodliffe made false, fraudulent, and deceptive statements on a document connected with the practice of medicine in North Dakota in violation of N.D.C.C. § 43-17-31(22). Goodliffe's statements resulted in a Department of Transportation Medical Examiner's Certificate being wrongly issued to his patient.

4. For violations of N.D.C.C. § 43-17-31, the Board may take disciplinary action against Goodliffe under N.D.C.C. § 43-17-30.1, including revocation or suspension of his license.

5. Under N.D.C.C. § 43-17-31.1, in disciplinary actions against a physician, the Board may direct the physician to pay the Board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the Board and its investigative panels in the investigation and prosecution of the case.

RECOMMENDED ORDER

The greater weight of the evidence shows, and Goodliffe admits, that he violated the provisions of law as stated in the conclusions of law, above. The ALJ accepts the disciplinary recommendation of Investigative Panel B. Accordingly, it is recommended that the Board order suspension of Goodliffe's license to practice medicine in North Dakota for one (1) year as well as imposition upon him of payment of the costs of the disciplinary proceeding, *i.e.*, the costs of the investigation and prosecution of the case as authorized under N.D.C.C. § 43-17-31.1. It is further recommended that the one-year period of suspension not be invoked at the present time and that it be stayed for a period of two (2) years, provided that Goodliffe comply with the conditions imposed by the Board within the two-year period of the stay. The recommended conditions of the stay are that Goodliffe attend and complete an ethics course approved by the Board, that he pay the costs imposed by the Board under N.D.C.C. § 43-17-31.1, within thirty (30) days of the

Board notifying him of the amount of the costs, and that he not further violate the provisions of N.D.C.C. § 43-17-31 within the two-year period of the stay. It is further recommended that if Goodliffe does not comply with the conditions of stay as outlined above, and further specified by the Board, within a period of two years, the Board shall suspend Goodliffe's license to practice medicine in North Dakota for a period of one (1) year; if Goodliffe complies with the conditions of the stay on or before the end of the two-year period of the stay, the Board shall reinstate Goodliffe's license to practice medicine in North Dakota, unconditionally.

Dated at Bismarck, North Dakota, this 17th day of March, 2004.

State of North Dakota
Board of Medical Examiners

By: _____
Allen C. Hoberg
Administrative Law Judge
Office of Administrative Hearings
1707 North 9th Street
Bismarck, North Dakota 58501-1882
Telephone: (701) 328-3260